

**PLANNING COMMISSION MINUTES**  
**APRIL 19, 2018**

**PUBLIC HEARING**

**CASE NO. 17ZONE1079 & 17STREETS1027**

Request: R-4 & C-1 to R-6 & C-2 and street closure of a portion of Old 18<sup>th</sup> Street and Old Dixie Highway  
Project Name: River Pointe Apartments  
Location: 12503 Dixie Highway  
Owner: RWD Properties, LLC  
Applicant: RWD Properties, LLC  
Representative: Daniel Senn  
Jurisdiction: Louisville Metro  
Council District: 14 – Cindi Fowler

**Case Manager: Laura L. Mattingly, AICP, Planner II**

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

**00:51:12** Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**00:58:48** In response to a question from Commissioner Carlson, Ms. Mattingly MSD's concerns regarding the street closure have been addressed. Commissioner Carlson also asked if signage should be provided directing drivers "To Old Dixie Highway." Commissioner Brown said that is not usually done, but could be considered if it becomes needed.

**01:00:38** Commissioner Brown asked about "the gate binding element". Ms. Mattingly said she would work on that. Commissioner Brown also asked if the applicant had renderings; Ms. Mattingly said they had examples from other, similar developments.

**01:01:18** Commissioner Carlson asked about what appeared to be a fence on the site plan.

**The following spoke in favor of this request:**

Daniel Senn, 2244 Taylorsville Road, Louisville, KY 40205  
Alex Rosenberg, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223  
David Richardson, 6807 West Pages Lane, Louisville, KY 40258  
Councilwoman Cindi Fowler, 600 West Jefferson Street, Louisville, KY 40202

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**Summary of testimony of those in favor:**

01:02:21 Daniel Senn, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He said that there is fencing and buffering proposed between the C-2 lots and the R-6 residential lot.

01:08:42 In response to a question from Commissioner Carlson, Mr. Senn explained that the second entrance is proposed to be gated. It will be accessible to emergency services.

01:10:30 Councilwoman Cindi Fowler spoke in support.

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

01:10:56 The Commissioners concur that the proposal is justified.

01:15:06 Ms. Mattingly read the following proposed binding element (should be binding element #10) into the record, as follows:

"All proposed gates will comply with emergency services standards."

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Street Closure**

01:15:50 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

**WHEREAS**, the Commission further finds that if any existing utilities within the right-of-way proposed for closure exist, they will be retained as an easement, relocated, or other arrangements made to ensure continued maintenance and provision of services to the property and community; and

**WHEREAS**, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant, including the cost of improvements to those

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rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

**WHEREAS**, the Commission further finds that the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the right-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities are existing and will not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested closure of a portion of Old Dixie Hwy just northeast of its intersection with Dixie Hwy and traveling northeast approximately 600 feet, AND a closure of Old 18th Street from its intersection with Old Dixie Hwy to its intersection with E. Orell Road be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.**  
**NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**Change in Zoning**

01:17:04 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The subject property is located on the east side of Dixie Highway approximately 1.5 miles south of I-265 (The Gene Snyder Freeway) on approximately 36.938 acres with proposed development of 17.87 acres with multi-family residential apartments

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and approximately 4 acres proposed with commercial uses which abut Dixie Highway. The remainder of the property is proposed to be held for future development to compliment the proposed apartments and commercial lots. All of the proposed development, except for the approximate 4 acres, is currently zoned C-4. The R-4 properties are located within the Neighborhood Form District with the approximate 4 acres located within the Suburban Marketplace Corridor Form District. The proposed R-6 zoning complies with guideline 1 of Cornerstone 2020 because it will take a currently vacant and blighted property and re-develop it into an upscale multi-family residential community that is a more appropriate use in the neighborhood form district. Guideline 1 encourages different types of housing within the Neighborhood Form District and the proposed development will be compatible with the nearby land uses which are commercial and higher density residential in the Dixie Highway area. Guideline 1 encourages open space and street connectivity to existing neighborhoods and the proposed development will include, not only recreational space but open green space among the planned apartment buildings along with an apartment clubhouse promoting a small scale civic center within the apartment complex with the street layout of the development to encourage walking traffic for the residents to interact with the rest of the neighborhood....For the foregoing reasons, the proposed change in zoning to R-6 and C-2 complies with Guideline 1 of Cornerstone 2020. The proposed re-zoning of the C-1 and small portion of the R-4 property all to C- 2 in the two, 2 acre, tracts that abut Dixie Highway complies with Guideline 1 of Cornerstone 2020 with the guidelines encouraging connectivity to nearby uses and the two commercial lots will be connected to the apartment complex to encourage the residents to either walk or bike to the commercial properties. The proposed C-2 commercial lots will be designed with common buffering to set out the commercial lots from the multi-family apartments. Guideline 1 concerning the Suburban Marketplace Corridor Form District encourages non-residential uses along a major corridor and in this case the two lots will abut and be fronted on Dixie Highway and currently these two properties are mostly already zoned commercial which the proposed use by this developer is to re-use these locations for commercial and a very small change in the boundaries would not be considered a major or any type of expansion, which all is encouraged by Guideline 1 under the Suburban Marketplace Corridor Form District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. Guideline 2 of Cornerstone 2020 encourages the mixed use of land and to provide an opportunity for a mixture of residential development that includes housing types, neighborhood centers, and to encourage commercial re-vitalization in re-developing areas. The proposed development of the two commercial lots and the slight change in the boundary to the Suburban Marketplace Corridor Form District complies with Guideline 2, in that it encourages mixed land uses in the form district and the two commercial lots will act as a semi-activity center on Dixie Highway and within a non-traditional residential area. The two commercial lots will be approximately 2 acres each and will provide for adequate parking for the use on those commercial properties with the two commercial properties being appropriately placed and designed with the scale of the two properties to ensure compatibility with the nearby residences which is all set out in the applicants' plan to allow the apartment residents easy access and interaction with the two commercial properties which will abut each other; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The subject property is located in an area that consists of a mixture of

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commercial, office, and residential uses on the south Dixie Highway corridor. The subject property is bounded to the east by Paducah and Louisville Railroad and to the west by Dixie Highway. North and south of the properties are a mixture of residential and commercial properties with the proposed two commercial lots being near commercial uses up and down Dixie Highway. The proposed R-6 properties are set back off of Dixie Highway and separated by the two proposed C-2 properties and the proposed development complies with Guideline 3 of Cornerstone 2020 and the goals in both the Neighborhood Form District and the Suburban Marketplace Form District. The proposed development preserves the character of the existing neighborhoods in its request for the multi-family development on property off and behind the commercial two properties. The proposed two commercial properties that lie on Dixie Highway will separating the two proposed uses (R-6 multi-family apartments and the two, C-2 commercial properties). The proposed development also complies with Guideline 3 of Cornerstone 2020 because the building material that will be used to construct the apartments will be residential in nature and compliant with the specified land development code. The proposed development will mitigate adverse impacts of traffic by repositioning the entrance ways and completing the street closures that are proposed. The buffering of the commercial properties out front on Dixie Highway from the proposed residential development should have noise mitigation and the lighting will be separated between residential type lighting in the apartment complex with the commercial lighting designation of the two commercial lots out front on Dixie Highway. The apartment complex will be set back and off of Dixie Highway to protect the character of the residential area. There will be consideration in the apartment complex for people with disabilities in the way the apartments are designed and the accessibility to the new development will be appropriate and compliant with Guideline 3 with the new road configuration and access points on Dixie Highway for the apartment complex as well as the two C-2 proposed commercial properties. The building heights of the proposed apartment complex will be no more than 2 stories and the setbacks will be compliant as well as the buffering and the lighting for both the proposed R-6 and C-2 properties. The signage for the proposed R- 6 apartments will be minimal and out near the entry with any commercial signage only located on the proposed C-2 commercial lots; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Guideline 4 of Cornerstone 2020 is intended to promote the creation of well-designed, permanently protected open spaces that meet community needs and enhance the quality of life in Jefferson County through accessible and functional open space. The proposed R-6 apartments have a planned recreational area and open spaces for the development and green space will be provided in and around each building of the proposed apartment complex. There will be buffered fencing and landscaping between the two proposed C-2 commercial lots and the apartment complex as well as buffering between the proposed R-6 apartment complex and the adjoining property owners. The proposed development will encourage open space and recreational needs of the proposed community and the owners of the apartment complex will maintain the open space and provide a continuing maintenance of these areas. The proposed two C-2 commercial properties are ample in size at 2 acres per lot, which will provide expansive adequate parking for the two individual commercial usages with the entry to the apartment complex and the landscaping around said entry splitting the two proposed C-2 properties dividing them with the landscaped and buffered entryway to the apartments; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5 – Natural Areas and Scenic and Historic Resources. Guideline 5 of Cornerstone 2020 is intended to help ensure that new developments protect the natural areas and features of important scenic and historic resources. The proposed development respects the natural features of the site through sensitive site design which will avoid substantial changes to the topography, and minimizes land disturbance and environmental degradation. The proposed development will utilize the low area in the acreage of the development for a proposed detention basin which will preserve the water flow and drainage of the development and the surrounding properties. The proposed development will comply with all of MSD's requirements and will be finished with landscaping and grasses to preserve slopes and eliminate erosion upon completion of the development. There are no archaeological sites located on the proposed development and the slope and topography of the proposed development does not inherently change the existing drainage of the property and the surrounding property owners, therefore the proposed development will not adversely affect the natural areas and features of the proposed site and the surrounding properties; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The subject property is located in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District with the existing R-4 and C-1 zoning. The proposed zoning change from R-4 to R-6 and the proposed change in zoning of the C-1 and small portion of the R-4 properties to the two C-2 commercial properties abutting Dixie Highway will provide a positive culture for attracting and sustaining businesses within Jefferson County. The intent of Guideline 6 is to ensure the availability of necessary usable land to facilitate commercial and residential development, as well as ensuring that regional skilled work places and industrial land uses have access to people, goods and services and these elements are at the core of the proposed development. The proposed development of apartments and two commercially zoned lots on Dixie Highway will preserve work places, and utilize vacant land to locate residential and commercial activity. Therefore, the proposed development will greatly enhance economic growth and sustainability to the south Dixie Highway corridor and this type of development is very much needed in the area for the economic growth of the surrounding businesses as well as enhancing the aesthetic areas along the south Dixie Highway corridor. ...Accordingly and because the proposed development will bring in residential homes and people to promote economic growth, it also will make the area more sustainable for other businesses in the area and the requested zoning change from R-4 to R-6 and C-1 and small portion of R-4 to C-2, along with the slight change in the Suburban Marketplace Corridor Form District boundary as well as the proposed street closure should all be approved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9 – Circulation, Transportation, Facility Design, and Bicycle & Pedestrian Transit. The subject site is located on Dixie Highway, a major arterial street, near the intersection of Orell Road and Old Dixie Highway, which is considered a minor arterial street. As a result, the surrounding roadways have adequate carrying capacity for the traffic that will be generated by the development. Additional right of way is proposed to be dedicated along Dixie Highway to accommodate the activity and traffic of the proposed development and the entrance to the development are designed to ensure the safe and efficient movement of pedestrians and

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vehicles without causing a nuisance to adjacent property owners. Sufficient vehicle parking spaces, including handicapped spaces required by the ADA, are provided on site. Parking is located primarily to the sides and front of the buildings in conformance with traditional form district standards. Bicycle parking will be provided on site in accordance with the land development code. The sidewalks along the interior roads of the development are planned for a walking area for the residents and pedestrian connections will be provided from the said new sidewalks to the two proposed C-2 commercial properties on Dixie Highway. In addition, the subject property is located along a TARC route, ensuring an adequate level of public transit service. Accordingly, the proposal accommodates all modes of transportation by providing for the moving of pedestrians, bicycles, vehicles and transit users to and through the development. There will be adequate pedestrian, bicycle and transit service, and the subject site is located where the transportation infrastructure exists to ensure the safe and efficient movement of people and goods; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10 AND 11 – Flooding, Stormwater and Water Quality. The subject site is located on the south Dixie Highway corridor and the proposed plan includes the topography to be changed so that a detention basin will collect any major runoff so that the existing drainage areas will not be overtaxed or inundated. The proposed development will comply with all MSD requirements and the proposed development is located on a site that will enable proper storm water handling and release management that will not adversely affect adjacent and downstream properties. The large open space areas around the development as well as the green infrastructure measures that will be incorporated into the development will provide water quality benefits by treating storm water runoff before it enters the existing drainage areas. Currently this site is nearly 100% impervious and the addition of landscape islands, bio-cells and other open space significantly improve storm water maintenance on the site. Further, the proposed development minimizes impervious areas by providing the parking near the buildings, green space and proper drainage in and around the buildings through the proposed development into a collector system designed with a detention basin for absorbing rains. Finally, an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices, as required by the Metropolitan Sewer District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The proposed development complies with Guideline 12 of Cornerstone 2020 because the proposal represents efficient land use pattern and utilizes current traffic patterns. The site is located along a TARC route and the proposed development will promote a reduction in commuting time for the residents. The developers are proposing that the two C-2 commercial lots on Dixie Highway will be utilized by light commercial use such as a small grocery store or convenience store that the residents of the apartment complex can use, therefore mitigating or eliminating some driving to and from for some basic needs for the surrounding residents; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. Guideline 13 of Cornerstone 2020 is intended to protect and link urban woodland fragments in conjunction with greenways, planning, promote tree canopy as a resource, enhance visual quality and to buffer incompatible land uses. The proposed rezoning

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complies with guideline 13 because tree canopy will be provided in accordance with the land development code. The vegetative buffer that will be preserved and enhanced along the adjacent property owners and the boundary line between the proposed C-2 commercial lots and at the entryway out to Dixie Highway between the two C-2 commercial lots, along with the general landscaping of the recreational and open spaces in the apartment complex will not only serve to buffer the proposed development from surrounding properties but will also preserve a natural greenway corridor that can provide habitat areas for and allow for wildlife migration. In addition, native plant species will be utilized in the landscape design. Street trees will be planted along the development and inside the interior roads of the apartment complex to enhance the streetscape, and significant interior landscaping will be installed throughout the site and in the vehicular use areas, which will enhance the buildings, break up the parking areas, and enhance the overall visual quality of the development. Finally, outdoor signage and lighting will comply with the land development code and will be compatible with the surrounding area both on the proposed R-6 apartment complex and the C-2 commercial properties; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 14 AND 15 – Infrastructure and Community Facilities. The proposed development complies with Guidelines 14 and 15 of Cornerstone 2020 because the subject property is served by an existing infrastructure and all necessary utilities, including water, electricity, telephone and cable. To the extent possible, the utilities will be located within common easements and trenches; the development also has an adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department. The design of the proposed development will not detract from the residential character of the immediate neighborhood, nor the commercial character of the immediate neighborhood because the proposed development now exists in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District. The design of the development will provide for adequate fire protection along with emergency services and police security within the development; and

**WHEREAS**, the Commission further finds that the proposal complies with KRS 100.213 because the existing R-4 residential and C-1 commercial zoning classification is appropriate as well as the proposed R-6 and C-2 multi-family residential zoning. The property is located in the Neighborhood Form District which is intended for predominately residential uses as well as some neighborhood servicing commercial and office uses and part of the proposed development for the C-2 commercial lots are all compliant with KRS 100.213. Therefore, the proposed rezoning to R-6 and C-2, the slight change in the Suburban Marketplace Corridor Form District, and the proposed street closure should be approved to allow this vacant site on south Dixie Highway to be re-developed into an apartment community and two C-2 commercial lots on Dixie Highway, all which will add a much needed positive economic impact to the south Dixie Highway corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the Community Form guideline because the proposal is for commercial uses along the corridor, which is consistent with the Dixie Hwy corridor pattern of development; sidewalks are proposed along Dixie Hwy, as well as cross connection to the property to the north and Dixie Hwy has good transit access; three of the proposed sites on the development plan can be accessed through one private access easement; the required landscape buffer areas are proposed along all frontages; there



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is a small expansion of the form district proposed with the commercial properties along Dixie, but the new lots lines make this expansion reasonable, with all required buffers provided. Additionally, the transition is from commercial to multi-family, with single family farther east; the proposal for multifamily is located in an area where the predominant housing option is single family. There are also several mobile home parks nearby. This proposal adds a needed housing option to the area; the proposal is located just off Dixie Hwy, a major arterial. This type of multi-family is a new housing type for this area, and the proposed height of structures is within LDC regulations and is setback off the corridor for better compatibility; and this is a compact apartment development with no new streets being created; and

**WHEREAS**, the Commission further finds that the proposal meets the Centers guideline because this proposal is located near the intersection of Dixie Hwy (a major arterial) and Blevins Gap Rd (a primary collector); the non-residential portion of this development is appropriately placed along a major arterial, with the residential portion located adjacent to commercial. Landscape Buffer Areas and setbacks are appropriate, making the development compatible with existing development; the proposal displays efficient use of land with a compact layout of buildings; this development proposes commercial and residential uses together with shared entrances and connectivity; this residential use is located on its own lot but will be located within a mixed-use development; this new development is near a proposed commercial use, as well as existing commercial uses along Dixie Highway; this proposal is designed in a manner that does not appear to have negative impacts on surrounding areas and does provide required buffers and setbacks; this portion of the proposal does not front on Dixie Hwy, therefore outlots on this parcel are not appropriate; the multi-family structures are designed around a central open space/recreational feature; this proposal has one main access point that is shared with the proposed commercial tracts along Dixie Highway; MSD and other utility agencies have no issues with the proposal; the proposed parking is typical of this style of multi-family development and pedestrian connections are sufficient; and Dixie Hwy is a major transit corridor and pedestrian connections have been established to Dixie from the multi-family portion of the development. Sidewalks are proposed along the Dixie Hwy frontage; and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the scale of the buildings are in compliance with the LDC; building materials will be a mixture of brick and vinyl which is similar to other residential structures in the area. The proposed building design will increase the aesthetics of the area; the apartments will be 2-stories in height and will be using similar building materials to what currently exists in the area. All buffers and setbacks have been provided to increase compatibility; Transportation staff has given preliminary approvals; a note has been placed on the plan indicating all lighting shall be directed downwards, in compliance with the LDC; the proposal adds diversity in housing choices to the area by proposing multi-family in an area that offers predominantly single family homes; the proposal is higher density and it is located along a commercial and transit corridor; this proposal could possibly provide an opportunity for housing for the elderly, as it is located on a transit line with services along Dixie Hwy to the north; the proposal is appropriate and inclusive in that it offers a different housing choice for those that may not be able to afford or prefer single family homes; all required buffer yards and setbacks have been provided and building design is compatible; the proposed property perimeter LBAs meet Land Development Code requirements; and the height, scale and setbacks appear to be in compliance with the LDC; and

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**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because the proposal includes 140,996 square feet of open space, including a playground as a central feature and dog park; open space standards have been exceeded and the design fits into the pattern of the Neighborhood form; and it appears that the stream corridor will be preserved and tree canopy requirements will be met; and

**WHEREAS**, the Commission further finds that proposal meets the Natural Areas and Scenic and Historic Resources guideline because it appears that the stream corridor will be preserved and the proposal indicates that all existing tree canopy will be preserved; this proposal does not include the demolition of any existing structures; and LOJIC has identified hydric soils on Tract 4 of the development, which does not have proposed development at this time. A note has been placed on the plan that states that US Army Corps of Engineer's approval is required prior to MSD approval; and

**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because a traffic study was conducted and Transportation Planning staff has reviewed the study and approved the plan; the proposal has adequate access and shows adequate connections to adjacent sites; and right of way will be dedicated as required by Transportation Planning and KYTC; and

**WHEREAS**, the Commission further finds that the proposal meets the Transportation Facility Design guideline because there are no private or public streets associated with this site, other than an access easement for the interior of the site; this site is accessed from a major arterial, through commercial development; and by connecting to the existing street network, the appropriate linkages are made; and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are proposed along Dixie Hwy, as well as along the access easement and throughout the development. Dixie Hwy is a transit corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the plan; and

**WHEREAS**, the Commission further finds that the proposal meets the Landscape Character guideline because there is no proposed development at this time within the stream buffer, allowing for any natural corridor to remain; and

**WHEREAS**, the Commission further finds that the proposal meets the Infrastructure guideline because there are existing utility connections on site; there are existing public water connections; and there are existing MSD connections on site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in Zoning from R-4, Single Family and C-1, Commercial to R-6, Multi-Family and C-2, Commercial on a total of 28.79 acres on property described in the attached legal description be **APPROVED**, with one correction to the staff

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report as follows: On page 7 of the staff report, "Louisville Metro Fire Department" should be changed to "Pleasure Ridge Park Fire Department"

**The vote was as follows:**

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.  
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**Form District Change**

01:18:30 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the applicant's justification statement, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The subject property is located on the east side of Dixie Highway approximately 1.5 miles south of I-265 (The Gene Snyder Freeway) on approximately 36.938 acres with proposed development of 17.87 acres with multi-family residential apartments and approximately 4 acres proposed with commercial uses which abut Dixie Highway. The remainder of the property is proposed to be held for future development to compliment the proposed apartments and commercial lots. All of the proposed development, except for the approximate 4 acres, is currently zoned C-4. The R-4 properties are located within the Neighborhood Form District with the approximate 4 acres located within the Suburban Marketplace Corridor Form District. The proposed R-6 zoning complies with guideline 1 of Cornerstone 2020 because it will take a currently vacant and blighted property and re-develop it into an upscale multi-family residential community that is a more appropriate use in the neighborhood form district. Guideline 1 encourages different types of housing within the Neighborhood Form District and the proposed development will be compatible with the nearby land uses which are commercial and higher density residential in the Dixie Highway area. Guideline 1 encourages open space and street connectivity to existing neighborhoods and the proposed development will include, not only recreational space but open green space among the planned apartment buildings along with an apartment clubhouse promoting a small scale civic center within the apartment complex with the street layout of the development to encourage walking traffic for the residents to interact with the rest of the neighborhood....For the foregoing reasons, the proposed change in zoning to R-6 and C-2 complies with Guideline 1 of Cornerstone 2020. The proposed re-zoning of the C-1 and small portion of the R-4 property all to C-2 in the two, 2 acre, tracts that abut Dixie Highway complies with Guideline 1 of Cornerstone 2020 with the guidelines encouraging connectivity to nearby uses and the two commercial lots will be connected to the apartment complex to encourage the residents to either walk or bike to the commercial properties. The proposed C-2 commercial lots will be designed with common buffering to set out the commercial lots from the multi-family apartments. Guideline 1 concerning the Suburban Marketplace Corridor Form District encourages non-residential uses along a major corridor and in this case the two lots will abut and be fronted on Dixie Highway and currently these two properties are mostly already zoned commercial which the proposed use by this developer is to re-use these locations for commercial and a very small

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change in the boundaries would not be considered a major or any type of expansion, which all is encouraged by Guideline 1 under the Suburban Marketplace Corridor Form District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. Guideline 2 of Cornerstone 2020 encourages the mixed use of land and to provide an opportunity for a mixture of residential development that includes housing types, neighborhood centers, and to encourage commercial re-vitalization in re-developing areas. The proposed development of the two commercial lots and the slight change in the boundary to the Suburban Marketplace Corridor Form District complies with Guideline 2, in that it encourages mixed land uses in the form district and the two commercial lots will act as a semi-activity center on Dixie Highway and within a non-traditional residential area. The two commercial lots will be approximately 2 acres each and will provide for adequate parking for the use on those commercial properties with the two commercial properties being appropriately placed and designed with the scale of the two properties to ensure compatibility with the nearby residences which is all set out in the applicants' plan to allow the apartment residents easy access and interaction with the two commercial properties which will abut each other; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The subject property is located in an area that consists of a mixture of commercial, office, and residential uses on the south Dixie Highway corridor. The subject property is bounded to the east by Paducah and Louisville Railroad and to the west by Dixie Highway. North and south of the properties are a mixture of residential and commercial properties with the proposed two commercial lots being near commercial uses up and down Dixie Highway. The proposed R-6 properties are set back off of Dixie Highway and separated by the two proposed C-2 properties and the proposed development complies with Guideline 3 of Cornerstone 2020 and the goals in both the Neighborhood Form District and the Suburban Marketplace Form District. The proposed development preserves the character of the existing neighborhoods in its request for the multi-family development on property off and behind the commercial two properties. The proposed two commercial properties that lie on Dixie Highway will separating the two proposed uses (R-6 multi-family apartments and the two, C-2 commercial properties). The proposed development also complies with Guideline 3 of Cornerstone 2020 because the building material that will be used to construct the apartments will be residential in nature and compliant with the specified land development code. The proposed development will mitigate adverse impacts of traffic by repositioning the entrance ways and completing the street closures that are proposed. The buffering of the commercial properties out front on Dixie Highway from the proposed residential development should have noise mitigation and the lighting will be separated between residential type lighting in the apartment complex with the commercial lighting designation of the two commercial lots out front on Dixie Highway. The apartment complex will be set back and off of Dixie Highway to protect the character of the residential area. There will be consideration in the apartment complex for people with disabilities in the way the apartments are designed and the accessibility to the new development will be appropriate and compliant with Guideline 3 with the new road configuration and access points on Dixie Highway for the apartment complex as well as the two C-2 proposed commercial properties. The building heights of the proposed apartment complex will be no more than 2 stories and the setbacks will be compliant as well as the buffering and the lighting for both the proposed R-6 and C-2 properties. The signage for the proposed R- 6 apartments will be

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minimal and out near the entry with any commercial signage only located on the proposed C-2 commercial lots; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Guideline 4 of Cornerstone 2020 is intended to promote the creation of well-designed, permanently protected open spaces that meet community needs and enhance the quality of life in Jefferson County through accessible and functional open space. The proposed R-6 apartments have a planned recreational area and open spaces for the development and green space will be provided in and around each building of the proposed apartment complex. There will be buffered fencing and landscaping between the two proposed C-2 commercial lots and the apartment complex as well as buffering between the proposed R-6 apartment complex and the adjoining property owners. The proposed development will encourage open space and recreational needs of the proposed community and the owners of the apartment complex will maintain the open space and provide a continuing maintenance of these areas. The proposed two C-2 commercial properties are ample in size at 2 acres per lot, which will provide expansive adequate parking for the two individual commercial usages with the entry to the apartment complex and the landscaping around said entry splitting the two proposed C-2 properties dividing them with the landscaped and buffered entryway to the apartments; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5 – Natural Areas and Scenic and Historic Resources. Guideline 5 of Cornerstone 2020 is intended to help ensure that new developments protect the natural areas and features of important scenic and historic resources. The proposed development respects the natural features of the site through sensitive site design which will avoid substantial changes to the topography, and minimizes land disturbance and environmental degradation. The proposed development will utilize the low area in the acreage of the development for a proposed detention basin which will preserve the water flow and drainage of the development and the surrounding properties. The proposed development will comply with all of MSD's requirements and will be finished with landscaping and grasses to preserve slopes and eliminate erosion upon completion of the development. There are no archaeological sites located on the proposed development and the slope and topography of the proposed development does not inherently change the existing drainage of the property and the surrounding property owners, therefore the proposed development will not adversely affect the natural areas and features of the proposed site and the surrounding properties; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The subject property is located in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District with the existing R-4 and C-1 zoning. The proposed zoning change from R-4 to R-6 and the proposed change in zoning of the C-1 and small portion of the R-4 properties to the two C-2 commercial properties abutting Dixie Highway will provide a positive culture for attracting and sustaining businesses within Jefferson County. The intent of Guideline 6 is to ensure the availability of necessary usable land to facilitate commercial and residential development, as well as ensuring that regional skilled work places and industrial land uses have access to people, goods and services and these elements are at the core of the proposed development. The proposed development of apartments and two commercially zoned lots on Dixie Highway will preserve work places, and

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utilize vacant land to locate residential and commercial activity. Therefore, the proposed development will greatly enhance economic growth and sustainability to the south Dixie Highway corridor and this type of development is very much needed in the area for the economic growth of the surrounding businesses as well as enhancing the aesthetic areas along the south Dixie Highway corridor. ...Accordingly and because the proposed development will bring in residential homes and people to promote economic growth, it also will make the area more sustainable for other businesses in the area and the requested zoning change from R-4 to R-6 and C-1 and small portion of R-4 to C-2, along with the slight change in the Suburban Marketplace Corridor Form District boundary as well as the proposed street closure should all be approved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9 – Circulation, Transportation, Facility Design, and Bicycle & Pedestrian Transit. The subject site is located on Dixie Highway, a major arterial street, near the intersection of Orell Road and Old Dixie Highway, which is considered a minor arterial street. As a result, the surrounding roadways have adequate carrying capacity for the traffic that will be generated by the development. Additional right of way is proposed to be dedicated along Dixie Highway to accommodate the activity and traffic of the proposed development and the entrance to the development are designed to ensure the safe and efficient movement of pedestrians and vehicles without causing a nuisance to adjacent property owners. Sufficient vehicle parking spaces, including handicapped spaces required by the ADA, are provided on site. Parking is located primarily to the sides and front of the buildings in conformance with traditional form district standards. Bicycle parking will be provided on site in accordance with the land development code. The sidewalks along the interior roads of the development are planned for a walking area for the residents and pedestrian connections will be provided from the said new sidewalks to the two proposed C-2 commercial properties on Dixie Highway. In addition, the subject property is located along a TARC route, ensuring an adequate level of public transit service. Accordingly, the proposal accommodates all modes of transportation by providing for the moving of pedestrians, bicycles, vehicles and transit users to and through the development. There will be adequate pedestrian, bicycle and transit service, and the subject site is located where the transportation infrastructure exists to ensure the safe and efficient movement of people and goods; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10 AND 11 – Flooding, Stormwater and Water Quality. The subject site is located on the south Dixie Highway corridor and the proposed plan includes the topography to be changed so that a detention basin will collect any major runoff so that the existing drainage areas will not be overtaxed or inundated. The proposed development will comply with all MSD requirements and the proposed development is located on a site that will enable proper storm water handling and release management that will not adversely affect adjacent and downstream properties. The large open space areas around the development as well as the green infrastructure measures that will be incorporated into the development will provide water quality benefits by treating storm water runoff before it enters the existing drainage areas. Currently this site is nearly 100% impervious and the addition of landscape islands, bio-cells and other open space significantly improve storm water maintenance on the site. Further, the proposed development minimizes impervious areas by providing the parking

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near the buildings, green space and proper drainage in and around the buildings through the proposed development into a collector system designed with a detention basin for absorbing rains. Finally, an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices, as required by the Metropolitan Sewer District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The proposed development complies with Guideline 12 of Cornerstone 2020 because the proposal represents efficient land use pattern and utilizes current traffic patterns. The site is located along a TARC route and the proposed development will promote a reduction in commuting time for the residents. The developers are proposing that the two C-2 commercial lots on Dixie Highway will be utilized by light commercial use such as a small grocery store or convenience store that the residents of the apartment complex can use, therefore mitigating or eliminating some driving to and from for some basic needs for the surrounding residents; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. Guideline 13 of Cornerstone 2020 is intended to protect and link urban woodland fragments in conjunction with greenways, planning, promote tree canopy as a resource, enhance visual quality and to buffer incompatible land uses. The proposed rezoning complies with guideline 13 because tree canopy will be provided in accordance with the land development code. The vegetative buffer that will be preserved and enhanced along the adjacent property owners and the boundary line between the proposed C-2 commercial lots and at the entryway out to Dixie Highway between the two C-2 commercial lots, along with the general landscaping of the recreational and open spaces in the apartment complex will not only serve to buffer the proposed development from surrounding properties but will also preserve a natural greenway corridor that can provide habitat areas for and allow for wildlife migration. In addition, native plant species will be utilized in the landscape design. Street trees will be planted along the development and inside the interior roads of the apartment complex to enhance the streetscape, and significant interior landscaping will be installed throughout the site and in the vehicular use areas, which will enhance the buildings, break up the parking areas, and enhance the overall visual quality of the development. Finally, outdoor signage and lighting will comply with the land development code and will be compatible with the surrounding area both on the proposed R-6 apartment complex and the C-2 commercial properties; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 14 AND 15 – Infrastructure and Community Facilities. The proposed development complies with Guidelines 14 and 15 of Cornerstone 2020 because the subject property is served by an existing infrastructure and all necessary utilities, including water, electricity, telephone and cable. To the extent possible, the utilities will be located within common easements and trenches; the development also has an adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department. The design of the proposed development will not detract from the residential character of the immediate neighborhood, nor the commercial character of the immediate neighborhood because the proposed development now exists in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District. The design of the development will provide for adequate fire protection along with emergency services and police security within the development; and

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**WHEREAS**, the Commission further finds that the proposal complies with KRS 100.213 because the existing R-4 residential and C-1 commercial zoning classification is appropriate as well as the proposed R-6 and C-2 multi-family residential zoning. The property is located in the Neighborhood Form District which is intended for predominately residential uses as well as some neighborhood servicing commercial and office uses and part of the proposed development for the C-2 commercial lots are all compliant with KRS 100.213. Therefore, the proposed rezoning to R-6 and C-2, the slight change in the Suburban Marketplace Corridor Form District, and the proposed street closure should be approved to allow this vacant site on south Dixie Highway to be re-developed into an apartment community and two C-2 commercial lots on Dixie Highway, all which will add a much needed positive economic impact to the south Dixie Highway corridor; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in Form District from Neighborhood to Suburban Marketplace Corridor on 1.15 acres on property described in the attached legal description be **APPROVED** with one correction to the staff report as follows: On page 7 of the staff report, "Louisville Metro Fire Department" should be changed to "Pleasure Ridge Park Fire Department".

**The vote was as follows:**

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.  
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**General/Detailed District Development Plan with binding elements**

01:19:44 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution, based on the applicant's justification, is adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested General/Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
  - a. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.



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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A road closure approval for Old Dixie Hwy and Old 18th Street shall be approved prior to requesting a building permit.
  - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding

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elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 19, 2018 Planning Commission meeting.
9. Upon development, redevelopment, of the properties adjacent to the subject property to the south(12519 and 12521 Dixie Highway, the "South Properties"), a unified access and circulation system shall be developed that will provide the subject property commercially reasonable access through the South Properties to Dixie Highway, as determined by the parties in consultation with Louisville Metro Public Works and the Kentucky Transportation Cabinet. The property owners of the South Properties and the subject property shall enter into a construction and maintenance agreement concerning the access which shall be on commercially reasonable terms. This agreement shall be memorialized in an easement agreement that is approved by the Jefferson County Attorney's office.
10. All proposed gates will comply with emergency services standards.

**The vote was as follows:**

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.  
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**MINUTES OF THE MEETING  
OF THE  
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

**March 22, 2018**

**New Business**

**Case No. 17ZONE1079 & 17STREETS1027**

<b>Request:</b>	Change in zoning from R-4 & C-1 to R-6 & C-2 and street closure of a portion of Old 18 <sup>th</sup> Street and Old Dixie Highway
<b>Project Name:</b>	River Pointe Apartments
<b>Location:</b>	12503 Dixie Highway
<b>Owner:</b>	RWD Properties
<b>Applicant:</b>	RWD Properties
<b>Representative:</b>	Daniel Senn
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	14 – Cindi Fowler

**Case Manager:** **Laura Mattingly, AICP, Planner II**

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:15:58 Laura Mattingly presented the case (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Daniel Senn, 2244 Taylorsville Rd, Louisville, KY 40205

Alex Rosenberg, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223

David Richardson, 6807 West Pages, Louisville, KY 40258 (signed in but did not speak)

Councilwoman Cindi Fowler, 601 West Jefferson Street, Louisville, KY 40202

**MINUTES OF THE MEETING  
OF THE  
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

**March 22, 2018**

**New Business**

**Case No. 17ZONE1079 & 17STREETS1027**

**Summary of testimony of those in favor:**

00:20:03 Daniel Senn, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

00:24:22 In response to a question from Commissioner Carlson, Mr. Senn explained why the project cannot move forward without the related proposed street closure.

00:26:44 Alex Rosenberg, the engineer for the project, answered questions about the traffic study and the street closure (see recording for detailed discussion.) Commissioner Carlson explained that an "interrupted street" (gate across it; a closed portion, etc.) can be a problem for emergency services. Mr. Senn said the closed portions of the streets will have their pavement/s removed; the ROW will also be closed.

00:35:47 Commissioner Carlson and the applicant's representatives had a detailed discussion about the closure of the Old Dixie Highway portion. Commissioner Brown said he had some of the same concerns, and did not want a 100-foot residual ROW to remain after a road closure. He discussed the street closure.

00:38:01 - 00:45:16 There was detailed discussion about the closure of the Old Dixie Highway portion, including the emergency gates (see recording.) Issues included adjoining properties with frontage/s and/or accesses on Old Dixie and Dixie Highway and emergency responder access, among others.

00:46:08 In response to a question from Commissioner Lewis, Tony Kelly, representing MSD, discussed sewer easement issue/s and MSD comments about detention basin calculations.

00:48:00 Councilwoman Cindi Fowler spoke in support. She said adjoining property owners usually use the Orell Road entrance to access their properties, not the portion of Old Dixie Highway proposed for closure.

00:49:35 In response to a question from Commissioner Brown, Councilwoman Fowler said there were no C-2 uses that she would request "binding out" for the site but would prefer retail uses.

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**March 22, 2018**

**New Business**

**Case No. 17ZONE1079 & 17STREETS1027**

**The following spoke in opposition to the request:**

No one spoke.

**Deliberation:**

00:51:42 Commissioners' deliberation.

**An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

00:54:02 The Committee by general consensus **initially** scheduled this case to be heard at the May 10, 2018 Planning Commission public hearing.

**\*NOTE: the applicant came back at the end of today's hearing to request an earlier public hearing date.**

02:30:39 Mr. Senn came back to ask for a reconsideration of the public hearing date. He said that he has contacted two property owners who would be affected by the street closure and both have agreed that they do want to close the ROW and they will sign documents to that effect.

02:31:44 The Committee by general consensus **re-scheduled** this case to be heard at the **April 19, 2018** Planning Commission public hearing.